IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 30293 of 2007(F)

PETITIONER:

KUNJAN RAGHAVAN,
CHAMAKKALAYIL HOUSE, NARIYANGANAM P.O.,
MELAMPARA KARA, THALAPPALAM VILLAGE,
MEENACHIL TALUK, KOTTAYAM DIST.

BY ADV. SRI.P.SANJAY,
ADV. SRI.BIJU MEENATTOOR.

RESPONDENTS:
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1. **THE DISTRICT COLLECTOR, KOTTAYAM.**
2. **THE ADDITIONAL DISTRICT MAGISTRATE, KOTTAYAM.**
3. **THE ASST. EXECUTIVE ENTINEER, ELECTRICAL SUB DIVISION, ERATTUPETTA.**
4. **THE ASST. ENGINEER, ELECTRICAL SECTION, ERATTUPETTA.**
5. **K.C.SEBASTIAN, KOOTTUNGAL HOUSE, NARIYANGANAM P.O., MELAMPARA KARA, THALAPPALAM VILLAGE, MEENACHIL TALUK, KOTTAYAM DIST.**

BY GOVT. PLEADER SRI. P.N. SANTHOSH FOR R1 & R2,
ADV. SRI. P.P. THAJUDEEN, SC, FOR R3 & R4.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.30293 OF 2007

Dated this the 18th day of October, 2007

JUDGMENT

Having regard to the nature of the orders being passed hereunder, notice to the 5th respondent is dispensed with.

2. The petitioner had power connection. That was given by drawing underground cable through the property of the 5th respondent. It is stated that, that was on consent of the 5th respondent. The necessity of otherwise for consent to draw an electric line is well covered by the decisions of this Court. But once a line is drawn and energised, further maintenance has to be made. For that, even if some obstructions has to be removed by the intervention of the Additional District Magistrate under Section 16 (1) of the Electricity Act, it cannot be held up, because, a person who had been enjoying power supply is now refused energy on the premise that the underground cable running through the property of the 5th respondent is damaged. That apart, if it is ultimately seen that the damage to the

underground cable was due to external intervention and not by natural wear and tear with passage of time, it has to be considered as to whether it is the petitioner or the 5th respondent who has to be mulcted with responsibility to make payments if at all necessary for the rectification. As of now, the Board has taken the stand that it is for the 5th respondent to make such payments.

In the aforesaid circumstances, without expressing anything on merits, this writ petition is disposed of directing that proceedings commenced in January, 2007, to which, Ext.P7 has been issued by the ADM, Kottayam, shall be concluded within an outer limit of 45 days from now, without fail. It shall be ensured that such decision is rendered untrammelled by anything stated in this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.